

09:38AM

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

CISCO SYSTEMS, INC.,	)	CV-14-5344-BLF
	)	
PLAINTIFF,	)	SAN JOSE, CALIFORNIA
	)	
VS.	)	NOVEMBER 18, 2016
	)	
ARISTA NETWORKS, INC.,	)	VOLUME 1
	)	
DEFENDANT	)	PAGES 1-24
	)	

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE BETH LABSON FREEMAN  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFF: DAVID A. NELSON  
QUINN EMANUEL URQUHART & SULLIVAN, LLP  
500 WEST MADISON STREET, SUITE 2450  
CHICAGO, IL 60661

FOR THE PLAINTIFF: QUINN, EMANUEL, URQUHART & SULLIVAN  
BY: SEAN PAK  
50 CALIFORNIA STREET, 22ND FLOOR  
SAN FRANCISCO, CALIFORNIA 94111

BY: DAVE NELSON  
500 WEST MADISON STREET, SUITE 2450  
CHICAGO, ILLINOIS 60661

APPEARANCES CONTINUED ON NEXT PAGE

OFFICIAL COURT REPORTER: SUMMER FISHER, CSR, CRR  
CERTIFICATE NUMBER 13185

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED WITH COMPUTER

APPEARANCES (CONTINUED)

FOR THE DEFENDANT: KEKER & VAN NEST, LLP  
BY: ROBERT ADDY VAN NEST  
BRIAN FERRALL  
DAVID J. SILBERT  
ELIZABETH K. MCCLOSKEY  
EDUARDO E. SANTACANA  
RYAN WONG  
DAVID J. ROSEN  
KEKER & VAN NEST LLP  
633 BATTERY STREET  
SAN FRANCISCO, CA 94111-1809

1 SAN JOSE, CALIFORNIA

NOVEMBER 18, 2016

2 P R O C E E D I N G S

3 (WHEREUPON, COURT CONVENED AND THE FOLLOWING PROCEEDINGS  
4 WERE HELD:)

09:38AM 5 THE COURT: GOOD MORNING, EVERYONE. PLEASE BE  
09:38AM 6 SEATED.

09:38AM 7 WELCOME, EVERYONE. MY NAME IS JUDGE BETH FREEMAN AND I  
09:38AM 8 WILL BE PRESIDING OVER THIS JURY. I WANT TO THANK ALL OF YOU  
09:38AM 9 FOR BEING HERE TODAY.

09:38AM 10 I KNOW NONE OF YOU VOLUNTEERED FOR JURY SERVICE. JURY  
09:38AM 11 SERVICE ALWAYS COMES AT A REALLY ANNOYING TIME IN YOUR LIFE  
09:38AM 12 WHEN YOU ARE TOO BUSY TO GIVE UP YOUR TIME. I GOT A JURY  
09:38AM 13 SUMMONS FOR SAN MATEO COUNTY JUST RECENTLY AND I HAVE BEEN  
09:38AM 14 SCRATCHING MY HEAD ABOUT HOW I'M GOING TO MAKE THAT WORK, SO I  
09:38AM 15 CAN ONLY IMAGINE WHAT IT'S LIKE FOR ALL OF YOU BEING HERE. SO  
09:38AM 16 THANK YOU.

09:38AM 17 IT IS YOUR CIVIC DUTY, YOU ALL KNOW THAT, THAT'S WHY YOU  
09:38AM 18 CAME IN EARLY THIS MORNING. AND IT IS ONE OF THE FEW THINGS  
09:38AM 19 THAT OUR GOVERNMENT ASKS OF ITS CITIZENS, AND THAT IS TO SERVE  
09:38AM 20 ON JURORS.

09:38AM 21 AND I WANT TO SPEND A FEW MINUTES TALKING TO YOU ABOUT WHY  
09:39AM 22 THAT'S SO IMPORTANT. I WANT TO TALK TO YOU ABOUT WHAT IT IS TO  
09:39AM 23 SERVE ON A JURY, BECAUSE FOR SOME OF YOU, YOU HAVEN'T HAD THAT  
09:39AM 24 OPPORTUNITY YET.

09:39AM 25 YOU KNOW, THIS -- SERVING ON A JURY IS REALLY, IN MY VIEW,

09:39AM 1 ONE OF THE GREAT HONORS OF BEING A CITIZEN IN THIS COUNTRY  
09:39AM 2 BECAUSE YOU HAVE A FUNDAMENTAL ROLE IN DETERMINING HOW JUSTICE  
09:39AM 3 IS SERVED AND DELIVERED IN THIS COUNTRY.

09:39AM 4 YOU WILL BE, IF YOU ARE SELECTED ON THIS JURY, THE FINDERS  
09:39AM 5 OF FACT IN THIS TRIAL. AND YOU WILL JOIN ME AS THE JUDGE OF  
09:39AM 6 THE LAW IN RENDERING A VERDICT IN THIS CASE. IT'S A VERY  
09:39AM 7 IMPORTANT JOB. IT'S IMPORTANT TO THE PARTIES WHO ARE HERE, WHO  
09:39AM 8 I WILL INTRODUCE YOU TO IN A MOMENT, BUT IT'S IMPORTANT TO OUR  
09:39AM 9 COMMUNITY, BECAUSE THESE ARE THE MATTERS THAT OUR COMMUNITY  
09:39AM 10 MEMBERS BRING TO THIS COURT FOR DECISION. AND I CAN'T DO IT  
09:39AM 11 WITHOUT YOU, AND NO JUDGE CAN.

09:39AM 12 NOW I KNOW A LOT OF YOU ARE THINKING, WELL, HOW COULD I BE  
09:40AM 13 A JUROR, I HAVEN'T BEEN TO LAW SCHOOL, I DIDN'T STUDY THE LAW,  
09:40AM 14 I ACTUALLY DON'T EVEN HAVE MUCH OF AN INTEREST IN THE LAW AND  
09:40AM 15 NOW I'VE GOT TO BE THE EXPERT.

09:40AM 16 WELL ACTUALLY, THAT IS THE GENOUS OF OUR SYSTEM. I  
09:40AM 17 CERTAINLY COULD DECIDE THIS CASE, AND FRANKLY I GET PAID TO DO  
09:40AM 18 THAT, SO THAT SEEMS VERY EFFICIENT. THE PROBLEM WITH THAT IS,  
09:40AM 19 IS THERE IS NO COMMUNITY INPUT IF I AM THE ONLY ONE DOING IT  
09:40AM 20 OVER AND OVER AGAIN.

09:40AM 21 AND THE IMPORTANT THING IS TO BRING PEOPLE TOGETHER AS  
09:40AM 22 JURORS WHO TAKE AN OATH TO BE OPEN-MINDED AND FAIR AND DECIDE  
09:40AM 23 THE CASE BASED ON THE EVIDENCE SUBMITTED IN THE CASE ACCORDING  
09:40AM 24 TO THE LAW. TO GIVE IT YOUR BEST REVIEW OF THE FACTS AND YOUR  
09:40AM 25 OPEN AND HONEST CONSIDERATION OF HOW THOSE FACTS APPLY TO THE

09:40AM 1 LAW.

09:40AM 2 AND YOU HAVE -- I WILL BE PICKING JURORS WHO HAVE NO  
09:40AM 3 AGENDA, WHO DON'T WANT TO SEE ONE OUTCOME OR THE OTHER, THAT  
09:40AM 4 YOU ARE LOOKING FOR THE CORRECT OUTCOME AND THE CHIPS FALL  
09:41AM 5 WHERE THEY MAY, WHOEVER PREVAILS IN THE CASE WILL GET THE  
09:41AM 6 VERDICT.

09:41AM 7 IT'S A VERY IMPORTANT ROLE. AND I THINK FOR ALL OF US,  
09:41AM 8 REGARDLESS OF THE KIND OF CASE IT IS, YOU ARE PERFORMING ONE OF  
09:41AM 9 OUR MOST IMPORTANT CONSTITUTIONAL OBLIGATIONS. AND WE ALL RELY  
09:41AM 10 ON OUR SYSTEM OF JUSTICE TO MAKE A DIFFERENCE IN OUR LIVES.  
09:41AM 11 AND SO EACH OF YOU HAS THE OPPORTUNITY TO PARTICIPATE IN IT.

09:41AM 12 NOW ALL THAT BEING SAID, I KNOW THAT YOU ARE ALL BUSY  
09:41AM 13 PEOPLE. AND I KNOW THAT THIS COMES AT A DIFFICULT TIME, SO MY  
09:41AM 14 PROMISE TO YOU IS THAT ALTHOUGH I CAN REQUIRE YOU TO BE HERE, I  
09:41AM 15 NEED TO ASSURE YOU AND I DO ASSURE YOU, I WILL NOT WASTE YOUR  
09:41AM 16 TIME. I'M GOING TO MOVE THIS CASE ALONG AS EFFICIENTLY AS I  
09:41AM 17 CAN, AND I WILL TRY TO DELIVER IT ON TIME AS I'VE DESCRIBED TO  
09:41AM 18 YOU IN THE FIRST QUESTIONNAIRE THAT YOU FILLED OUT.

09:41AM 19 AS YOU SAW IN THE FIRST QUESTIONNAIRE ON HARDSHIP, WE ARE  
09:42AM 20 NOT IN SESSION NEXT WEEK. NEXT WEEK EVERYONE IS GOING TO BE  
09:42AM 21 MAKING ARRANGEMENTS FOR THANKSGIVING, MANY OF YOU WILL BE  
09:42AM 22 TRAVELLING, SO THIS MORNING IS YOUR OBLIGATION TODAY AND THEN  
09:42AM 23 YOU WILL COME BACK A WEEK FROM MONDAY ON NOVEMBER 28TH WHEN I  
09:42AM 24 WILL ACTUALLY PICK THE JURY. AND THEN WE WILL GET STARTED.

09:42AM 25 WE WILL GO DAY TO DAY UNTIL THE CASE IS OVER. AND MY BEST

09:42AM 1 ESTIMATE IS THAT THE CASE WILL CONCLUDE BY DECEMBER 16TH, WHICH  
09:42AM 2 IS A FRIDAY.

09:42AM 3 NOW I WANT YOU TO UNDERSTAND IT'S ONLY MY BEST ESTIMATE, I  
09:42AM 4 HAVE BEEN DOING THIS FOR A LONG TIME. I DO A PRETTY GOOD JOB,  
09:42AM 5 BUT SOMETIMES CASES TAKE LONGER. SOMETIMES JURORS NEED TO  
09:42AM 6 DELIBERATE LONGER THAN I HAD EXPECTED. AND SO OF COURSE YOU  
09:42AM 7 ARE HERE UNTIL THE CASE IS OVER, WE DON'T JUST SEND YOU HOME  
09:42AM 8 BECAUSE WE'VE RUN OUT OF TIME.

09:42AM 9 BUT I WILL -- WE CERTAINLY HAVE MORE HOLIDAYS COMING UP,  
09:43AM 10 YOU HAVE MORE TRAVEL COMING UP BEYOND WHAT I ASKED YOU TO  
09:43AM 11 CLEAR, AND WE WILL TALK FURTHER ABOUT THAT AS WELL.

09:43AM 12 NOW, I KNOW THAT SOME OF YOU HAVE SERVED ON JURORS BEFORE,  
09:43AM 13 SO THIS MAY SEEM FAIRLY ROUTINE TO YOU ABOUT WHAT YOUR JOB IS  
09:43AM 14 AND WHAT WE ARE GOING TO DO. OTHERS OF YOU HAVE NOT SERVED ON  
09:43AM 15 A JURY AND SOME OF YOU MAY NEVER HAVE BEEN IN A COURTROOM  
09:43AM 16 BEFORE.

09:43AM 17 AND SO THAT'S WHERE I KNOW SOME OF THE CONCERN IS IN YOUR  
09:43AM 18 MINDS IS NOT KNOWING WHAT YOU'RE SUPPOSED TO DO.

09:43AM 19 WELL, THE GOOD NEWS IS MY JOB IS TO TELL YOU WHAT YOUR  
09:43AM 20 RESPONSIBILITIES ARE, IS TO GIVE YOU THROUGH JURY INSTRUCTIONS,  
09:43AM 21 THE LAW THAT YOU ARE REQUIRED TO FOLLOW.

09:43AM 22 THE ATTORNEY'S JOB IS TO PRESENT TO YOU THE EVIDENCE AND  
09:43AM 23 GIVE YOU ARGUMENT ON HOW THE LAW APPLIES TO THE EVIDENCE YOU'VE  
09:43AM 24 SEEN AND TO DISCUSS WITH YOU HOW THEY SEE THAT EVIDENCE IN  
09:43AM 25 THEIR CLOSING ARGUMENTS. AND SO YOU AS JURORS END UP BEING

09:44AM 1 ACTUALLY FAIRLY PASSIVE, YOU DON'T ASK QUESTIONS, YOU DON'T  
09:44AM 2 PARTICIPATE IN THE TRIAL IN ACTIVE WAY, YOU ARE LISTENERS.

09:44AM 3 BUT YOUR DELIBERATIONS AT THE END, AMONG YOURSELVES ONLY, I  
09:44AM 4 DON'T SIT IN ON YOUR DELIBERATIONS AND YOU DON'T DO IT HERE IN  
09:44AM 5 THE COURTROOM, THAT IS WHERE YOU HAVE THE OPPORTUNITY TO  
09:44AM 6 PRIVATELY WITH ALL THE JURORS, DISCUSS WHAT YOU HAVE SEEN AND  
09:44AM 7 HEARD, LOOK AT THE LAW, UNDERSTAND THE LAW AND APPLY IT AFTER  
09:44AM 8 YOU DETERMINED WHAT HAPPENED IN THIS CASE, WHAT THE FACTS ARE.  
09:44AM 9 AND SO THAT WILL BE YOUR JOB.

09:44AM 10 SO IT'S NEVER THAT EASY AND I WILL BE TALKING TO YOU ALONG  
09:44AM 11 THE WAY ABOUT WHAT YOU WILL BE DOING AS JURORS.

09:44AM 12 TODAY MY ROLE IS FAIRLY LIMITED AND YOUR JOB IS FAIRLY  
09:44AM 13 LIMITED TODAY, SO I'M NOT GOING TO GET AHEAD OF MYSELF ON SOME  
09:44AM 14 OF THOSE MORE COMPLEX ISSUES.

09:44AM 15 MY JOB TODAY IS TO GET STARTED ON THE JURY SELECTION. NOW  
09:45AM 16 ULTIMATELY I'M LOOKING FOR EIGHT JURORS WHO WILL SIT THROUGH  
09:45AM 17 THE TRIAL. NOW I KNOW THAT MANY OF YOU HAVE ALREADY LOOKED  
09:45AM 18 AROUND THE ROOM AND YOU'VE DONE THE MATH IN YOUR HEAD AND  
09:45AM 19 YOU'VE DECIDED YOUR ODDS ARE PRETTY GOOD OF GETTING OUT OF  
09:45AM 20 HERE, AND THAT WOULD BE CORRECT, EXCEPT HERE'S ADMONITION AND  
09:45AM 21 REQUEST OF YOU. AS YOU ANSWER MY QUESTIONS, YOU NEED YOU TO  
09:45AM 22 PRESUME THAT YOU WILL BE ON THE JURY. BECAUSE IF YOU JUST  
09:45AM 23 CHECK OUT AND GIVE ME NO ANSWERS TO ANYTHING, THE CHANCES ARE  
09:45AM 24 YOU ARE GOING TO GET PICKED BECAUSE I HAVE NOT HEARD ENOUGH  
09:45AM 25 FROM YOU.

09:45AM 1 SO I NEED YOU TO CONCENTRATE ON THE QUESTIONS AND GIVE ME  
09:45AM 2 YOUR OPEN AND HONEST ANSWERS SO THAT WE CAN PICK THE JURY FOR  
09:45AM 3 THIS CASE.

09:45AM 4 NOW WHEN WE PICK A JURY, WE DON'T PICK THE PEOPLE WHO WANT  
09:45AM 5 TO BE ON THE JURY. WE DON'T EXCUSE THE PEOPLE WHO WANT TO BE  
09:45AM 6 EXCUSED. THIS NOW IS A GROUP THAT WE WILL BE EVALUATING BASED  
09:45AM 7 ON THE INFORMATION THAT YOU GIVE US.

09:45AM 8 YOU'VE ALREADY TAKEN AN OATH, YOU WILL TAKE OTHER OATHS ON  
09:46AM 9 THE PAPER THAT YOU FILL OUT TO TELL THE TRUTH. AND I KNOW EACH  
09:46AM 10 OF YOU WILL BE HONEST, BUT I NEED TO JUST REMIND YOU THAT  
09:46AM 11 THAT'S VERY IMPORTANT.

09:46AM 12 I WILL BE JUDGING YOUR STATEMENTS THAT YOU MAKE TO MAKE  
09:46AM 13 SURE THAT YOU ARE TELLING ME THE TRUTH, AND TRUST ME, I'VE BEEN  
09:46AM 14 DOING THIS FOR A LONG TIME, SO WHEN THE JURORS ARE SKATING ON  
09:46AM 15 THE TRUTH, I USUALLY CAN FIGURE THAT OUT AND WE WILL PROBE THAT  
09:46AM 16 A LITTLE BIT MORE. BUT GENERALLY THAT'S NOT A PROBLEM.

09:46AM 17 I'M LOOKING FOR A JURY THAT IS MADE UP OF INDIVIDUALS WHO  
09:46AM 18 CAN BE FAIR AND OPEN-MINDED, WHO CAN LISTEN TO ALL THE EVIDENCE  
09:46AM 19 BEFORE YOU REACH A CONCLUSION, WHO CAN LISTEN TO THE LAW AND  
09:46AM 20 APPLY THAT LAW REGARDLESS OF WHETHER YOU AGREE WITH THAT LAW OR  
09:46AM 21 NOT.

09:46AM 22 AND THOSE ARE ALL VERY IMPORTANT IDEAS. SO LET ME JUST  
09:46AM 23 START WITH BEING FAIR AND OPEN MINDED, IT SOUNDS SIMPLE, BUT I  
09:46AM 24 THINK FOR MANY OF US, WE MAKE DECISIONS EVERY MINUTE OF OUR  
09:46AM 25 LIVES, AND WE USE OUR LIFE EXPERIENCE TO INFORM US ABOUT THOSE



09:47AM 1 DECISIONS.

09:47AM 2 AND YOUR LIFE EXPERIENCES ARE IMPORTANT AND YOUR COMMON  
09:47AM 3 SENSE IS IMPORTANT, BUT YOUR SPECIALIZED TRAINING AND YOUR  
09:47AM 4 PARTICULAR INDIVIDUAL LIFE EXPERIENCE THAT MIGHT HAVE COLORED  
09:47AM 5 YOUR MIND SO THAT YOU ARE NO LONGER OPEN-MINDED, IS WHAT I NEED  
09:47AM 6 TO KNOW ABOUT.

09:47AM 7 AND WE WILL, THROUGH A QUESTIONNAIRE THAT I'M GOING TO  
09:47AM 8 DISCUSS WITH YOU IN A FEW MINUTES AND IN QUESTIONING IN COURT  
09:47AM 9 WHEN YOU COME BACK A WEEK FROM MONDAY, TALK ABOUT THOSE THINGS.

09:47AM 10 NOW YOU HAVE A WEALTH OF LIFE EXPERIENCES. THIS CASE IS  
09:47AM 11 ONE SLICE, AND IT MAY HAVE NO CONNECTION TO ANYTHING YOU'VE  
09:47AM 12 EVER DONE IN YOUR LIFE, OR IT MAY BE WHAT YOU LIVE EVERY DAY.  
09:47AM 13 AND SO WE WILL START TO LEARN ABOUT THAT AND DETERMINE WHETHER  
09:47AM 14 OR NOT YOU WOULD BE THE RIGHT PERSON FOR THIS TRIAL.

09:47AM 15 BUT LET ME JUST BE CLEAR, WE ARE NOT ASKING YOU WHETHER YOU  
09:47AM 16 WANT TO BE ON THIS CASE AS A JUROR, WE ARE NOT ASKING YOU  
09:48AM 17 WHETHER YOU THINK THIS IS THE RIGHT CASE FOR YOU TO BE A JUROR,  
09:48AM 18 WE ARE LOOKING TO SEE WHETHER YOU CAN BE FAIR AND OPEN MINDED.

09:48AM 19 NOW IN DAILY LIFE WE OFTEN MAKE SNAP JUDGMENTS. I THINK  
09:48AM 20 ALL OF US HAVE PROBABLY ENDED UP RED FACED FROM JUMPING TO  
09:48AM 21 CONCLUSIONS WHERE WE WERE ONLY PROVED TO BE WRONG. HOW MANY  
09:48AM 22 TIMES HAVE WE AT SAT AT A LIGHT TEN CARS BACK, IT TURNS GREEN,  
09:48AM 23 NOBODY MOVES, YOU START HONKING YOUR HORN OR AT LEAST CURSING  
09:48AM 24 IN YOUR CAR QUIETLY TO YOURSELF, ONLY TO LEARN THAT A  
09:48AM 25 PEDESTRIAN HAS DECIDED TO WALK IN THAT CROSS WALK AFTER THE

09:48AM 1 LIGHT CHANGED AND THE PATIENT FRONT DRIVER DECIDED NOT TO MOW  
09:48AM 2 THAT PERSON DOWN, WHICH WAS PROBABLY NOT A WISE DECISION.

09:48AM 3 SO NOT HAVING ALL THE INFORMATION, WE HAVE MADE A  
09:48AM 4 CONCLUSION THAT SOMEBODY IS PUTTING ON THEIR MASCARA OR SHAVING  
09:48AM 5 AT THE LIGHT AND NOT MOVING ALONG.

09:48AM 6 THAT'S ALMOST A SILLY EXAMPLE, BUT I WANT TO MAKE IT CLEAR,  
09:48AM 7 IT'S -- ONLY ONE PERSON CAN TALK AT A TIME IN THE COURTROOM.  
09:49AM 8 ONLY ONE WITNESS CAN BE ON THE WITNESS STAND, ONLY ONE SIDE CAN  
09:49AM 9 PRESENT THEIR CASE AT A TIME. SO WE HAVE TO HEAR EVERYTHING.

09:49AM 10 AND I KNOW IN YOUR LIVES WHETHER IT'S HOME OR WORK, YOU'VE  
09:49AM 11 HAD SITUATIONS LIKE THAT WHERE YOU'VE ACTUALLY HAD TO GATHER  
09:49AM 12 ALL THE INFORMATION BEFORE YOU CAN DRAW A CONCLUSION.

09:49AM 13 SOME OF YOU MAY BE SCIENTISTS OR TRAINED AS SCIENTISTS AND  
09:49AM 14 YOU UNDERSTAND THE SCIENTIFIC METHOD REQUIRES THAT. SOME OF  
09:49AM 15 YOU MAY HAVE OTHER KINDS OF WORK, YOU MAY WORK IN HUMAN  
09:49AM 16 RESOURCES, YOU MAY BE SCHOOL TEACHERS, YOU MAY WORK IN THE  
09:49AM 17 MEDICAL FIELD WHERE YOU REALIZE THAT IF YOU DON'T WAIT TO  
09:49AM 18 GATHER ALL OF THE INFORMATION, YOU ARE GOING TO MAKE VERY  
09:49AM 19 IMPORTANT MISTAKES THAT MAY HURT OTHER PEOPLE.

09:49AM 20 SOME OF YOU HAVE EXPERIENCES IN YOUR FAMILIES, YOU MIGHT  
09:49AM 21 HAVE CHILDREN WHO ARE ALWAYS TATTLING ON EACH OTHER AND YOU  
09:49AM 22 HAVE TO FIGURE OUT WHICH ONE OF THESE CHILDREN IS TELLING THE  
09:49AM 23 TRUTH.

09:49AM 24 AND OF COURSE IN COURT, WE DON'T JUST PUNISH EVERYBODY  
09:49AM 25 BECAUSE WE ARE TOO BUSY TO FIGURE OUT WHAT'S GOING ON. WE ARE

09:49AM 1 GOING TO TRY TO DETERMINE THROUGH JUDGING CREDIBILITY, THINKING  
09:50AM 2 ABOUT THE EVIDENCE, DETERMINING WHAT HAPPENED IN THE CASE, AND  
09:50AM 3 YOU ARE THE ONES WHO DO THAT.

09:50AM 4 SO I'M LOOKING FOR JURORS WHO CAN PERFORM THAT JOB, WHO CAN  
09:50AM 5 SIT THROUGH THE TRIAL AND LISTEN AND THEN DISCUSS IT WITH YOUR  
09:50AM 6 FELLOW JURORS TO REACH A VERDICT.

09:50AM 7 NOW, WE ALL HAVE BIASES. ALL OF US DO. SOME BIASES ARE  
09:50AM 8 HARMLESS. I MEAN FOR EXAMPLE I LIKE THE COLOR GREEN, I HAVE A  
09:50AM 9 BIAS IN FAVOR OF THE COLOR GREEN. THAT GENERALLY DOESN'T HURT  
09:50AM 10 ANYONE.

09:50AM 11 OTHER PEOPLE HAVE BIASES THAT ARE ACTUALLY VERY HURTFUL.  
09:50AM 12 THEY COULD BE RACIAL BIASES, THEY COULD BE GENDER BIASES, THOSE  
09:50AM 13 ARE VERY HURTFUL THINGS.

09:50AM 14 AND SO SOME OF US ARE AWARE OF THOSE BIASES AND ARE WORKING  
09:50AM 15 ON TRYING TO CHANGE THEM. OTHERS OF US MIGHT NOT BE AWARE OF  
09:50AM 16 THEM AND OTHERS MIGHT NOT HAVE THE BIAS, IT'S NOT FOR ME TO  
09:50AM 17 JUDGE WHETHER YOU HAVE A BIAS OR NOT.

09:50AM 18 WHAT I'M ASKING IS, IS THAT AS YOU LISTEN TO THE QUESTIONS  
09:50AM 19 IN THIS CASE, IF YOU RECOGNIZE THAT YOU HAVE A STRONGLY HELD  
09:51AM 20 VIEW ONE WAY OR THE OTHER THAT WOULD PREVENT YOU FROM BEING  
09:51AM 21 OPEN MINDED, THAT YOU LET ME KNOW.

09:51AM 22 NOW, AS I SAY, NOT EVERY CASE DRAWS IN EVERY ASPECT OF YOUR  
09:51AM 23 LIFE, AND SO YOU MIGHT BE THINKING ABOUT YOUR OWN BIASES AND  
09:51AM 24 REALIZE AS WE TALK ABOUT THIS CASE, OH, THAT'S NOT EVEN AN  
09:51AM 25 ISSUE HERE, THAT'S JUST, I DON'T EVEN HAVE TO WORRY ABOUT THAT

09:51AM 1 BECAUSE THAT'S NOT THE SUBJECT MATTER. AND THAT'S FINE. SO  
09:51AM 2 THIS IS A SIFTING PROCESS YOU WILL GO THROUGH AS WE LISTEN.

09:51AM 3 I NEED YOU TO HONESTLY TELL ME IF YOU HAVE STRONGLY HELD  
09:51AM 4 VIEWS THAT ARE GOING TO MAKE A DIFFERENCE OF YOU BEING FAIR IN  
09:51AM 5 THIS CASE. BUT I NEED YOU TO BE HONEST IN NOT MAKING UP  
09:51AM 6 STRONGLY HELD VIEWS SO YOU CAN GET OFF THIS CASE. AND THAT'S  
09:51AM 7 ALWAYS ONE OF MY CONCERNS HERE. SO I PUT IT RIGHT OUT THERE TO  
09:51AM 8 LET YOU KNOW THOSE ARE MY CONCERNS.

09:51AM 9 SO WE WILL, THROUGHOUT THIS JURY SELECTION PROCESS,  
09:52AM 10 CONTINUE TO EXPLORE THOSE IDEAS. NOW WHAT I WOULD LIKE TO DO,  
09:52AM 11 THE FINAL THING I WANT TO TELL YOU ABOUT JURY SERVICE, AND IT'S  
09:52AM 12 SOMETHING YOU WILL HEAR FROM ME OVER AND OVER AGAIN, I'M SORRY  
09:52AM 13 I WILL SOUND LIKE A BROKEN RECORD, BUT IT IS VERY IMPORTANT.

09:52AM 14 AS OF NOW, YOU KNOW THE NAME OF THIS CASE AND YOU KNOW MY  
09:52AM 15 NAME AND YOU ACTUALLY DON'T KNOW ANYTHING ELSE ABOUT THE CASE.  
09:52AM 16 YOU CANNOT DO ANY RESEARCH OR INVESTIGATION ABOUT THIS CASE,  
09:52AM 17 ABOUT ME, ABOUT THE ATTORNEYS, ABOUT THE SUBJECT MATTER.

09:52AM 18 NOW FOR MANY OF YOU IN YOUR JOBS, YOU GET AHEAD BY TEACHING  
09:52AM 19 YOURSELVES AHEAD OF THE JOB ASSIGNMENT HOW TO DO SOMETHING SO  
09:52AM 20 THAT YOU ARE READY ON DAY ONE. WELL, IN JURY SERVICE THERE'S  
09:52AM 21 NO HOMEWORK AND IN FACT IT'S PROHIBITED AND IN FACT IT'S A  
09:52AM 22 COURT ORDER THAT YOU NOT DO ANY INVESTIGATION.

09:52AM 23 NOW THAT USED TO BE EASY FOR ME TO TALK TO JURORS ABOUT, I  
09:52AM 24 WOULD SAY TO THEM, DON'T TALK TO FRIENDS OR FAMILY MEMBERS WHO  
09:53AM 25 ARE EXPERTS IN THE FIELD, DON'T GO TO THE LIBRARY AND DO

09:53AM 1 RESEARCH, AND DON'T LOOK AT DICTIONARIES TO UNDERSTAND WHAT  
09:53AM 2 WORDS MEAN.

09:53AM 3 WELL, LET'S SEE, SO NOBODY KNOWS WHAT A DICTIONARY IS  
09:53AM 4 ANYMORE AND IF A LIBRARY IF IT'S EVEN OPEN YOU DON'T KNOW WHERE  
09:53AM 5 IT IS ANYMORE, YOU DON'T USE THOSE. THE WORLD IS AT YOUR  
09:53AM 6 FINGER TIPS MOST OF YOU ARE CARRYING IT IN YOUR POCKET PURSE OR  
09:53AM 7 BRIEFCASE RIGHT NOW, AND IT'S THE INTERNET.

09:53AM 8 IF YOU ARE LIKE ME, YOU ARE GOING TO DO A SEARCH ON  
09:53AM 9 EVERYTHING THAT PASSES YOUR WAY, WHETHER IT'S IMPORTANT OR NOT  
09:53AM 10 IT'S YOUR HABIT, IT'S HOW WE LIVE OUR LIVES.

09:53AM 11 AND YOU CAN DEEP DOING THAT, EXCEPT WHAT'S OFF LIMITS IS  
09:53AM 12 EVERYTHING ABOUT THIS CASE AND ALL OF THE PEOPLE INVOLVED IN  
09:53AM 13 IT. IT'S OFF LIMITS FROM NOW FORWARD. I'M SORRY TO TELL YOU,  
09:53AM 14 THIS IS A COURT ORDER, THERE ARE GRAVE CONSEQUENCES IF YOU  
09:53AM 15 VIOLATE THIS ORDER, BUT YOU MAY HEAR WORDS THAT YOU'VE NEVER  
09:53AM 16 HEARD BEFORE. YOU CANNOT LOOK THEM UP. YOU CANNOT.

09:53AM 17 YOU MAY HEAR CONCEPTS THAT ARE NOT FAMILIAR TO YOU, YOU  
09:54AM 18 CANNOT DO THE RESEARCH YOURSELF. THAT IS MY JOB TO EXPLAIN  
09:54AM 19 THAT TO YOU. AND I NEED YOU TO TRUST THAT YOUR JURY  
09:54AM 20 INSTRUCTIONS WILL COVER IT AND THE ATTORNEYS WILL BE GIVEN THE  
09:54AM 21 OPPORTUNITY TO DISCUSS IT WITH YOU IN THEIR OPENING AND CLOSING  
09:54AM 22 ARGUMENTS AS WELL.

09:54AM 23 AND THERE'S A REASON FOR THIS. YOU MAY WONDER WHY IS THIS  
09:54AM 24 SO DIFFERENT THAN ANYTHING ELSE IN LIFE. IN A COURT OF LAW  
09:54AM 25 THERE ARE RULES AS TO WHAT MATERIAL CAN BE PRESENTED TO A JURY.

09:54AM 1 AND THOSE ARE CALLED THE FEDERAL RULES OF EVIDENCE. THOSE ARE  
09:54AM 2 THE GROUND RULES.

09:54AM 3 AND SO IF YOU DO YOUR OWN INVESTIGATION, YOU HAVE NO IDEA  
09:54AM 4 WHETHER YOU ARE READING A FALSE REPORT OR A TRUE REPORT WHEN  
09:54AM 5 YOU ARE ON THE INTERNET. YOU HAVE NO IDEA. AND I HAVE NO IDEA  
09:54AM 6 WHAT YOU ARE READING, BUT MORE IMPORTANTLY, THE PARTIES IN THIS  
09:54AM 7 CASE DON'T EVEN HAVE A CHANCE TO GIVE ANOTHER VERSION OF WHAT  
09:54AM 8 YOU'RE LOOKING AT. AND SO YOU CAN'T LOOK AT ANYTHING, YOU HAVE  
09:55AM 9 TO TRUST THAT THIS SYSTEM PROVIDES IN AN ADVERSARIAL SETTING  
09:55AM 10 FOR EACH SIDE TO GIVE YOU THE EVIDENCE THAT THEY FEEL WILL  
09:55AM 11 PERSUADE YOU THAT THEIR POSITION IS CORRECT. AND THE OTHER  
09:55AM 12 SIDE HAS THE CHANCE, THROUGH CROSS-EXAMINATION OR PRESENTING  
09:55AM 13 OTHER EVIDENCE, TO PERSUADE YOU THAT THAT'S NOT CORRECT AND  
09:55AM 14 THEIR POSITION IS THE CORRECT ONE.

09:55AM 15 AND SO YOU ARE WELCOME, AS I SAID, TO USE YOUR DEVICES,  
09:55AM 16 WHATEVER YOU USE, TO CONTINUE TO READ WHAT YOU LIKE TO READ,  
09:55AM 17 BUT NOT ABOUT THIS CASE. AND IF YOU WERE TO FLASH UPON  
09:55AM 18 SOMETHING ABOUT THIS CASE, YOU HAVE TO TURN IT OFF.

09:55AM 19 THAT ALSO EXTENDS TO YOUR CONVERSATIONS WITH PEOPLE WHO YOU  
09:55AM 20 KNOW AND COME IN CONTACT WITH AND YOUR FELLOW JURORS. YOU  
09:55AM 21 CANNOT TALK TO ANYONE ABOUT THIS CASE. WHAT YOU CAN SAY TO THE  
09:55AM 22 PEOPLE YOU NORMALLY CHAT WITH IS THAT YOU ARE A PROSPECTIVE  
09:55AM 23 JUROR AND THE CASE IS EXPECTED TO LAST UNTIL DECEMBER 16TH.

09:55AM 24 WHEN THEY SAY TO YOU OH, WHAT'S THE CASE ABOUT? YOU CAN  
09:56AM 25 SAY, I AM A PROSPECTIVE JUROR AND THE CASE IS EXPECTED TO LAST

09:56AM 1 UNTIL DECEMBER 16TH. THAT'S THE ONLY ANSWER YOU ARE ALLOWED TO  
09:56AM 2 GIVE.

09:56AM 3 I KNOW THAT'S ARTIFICIAL, I KNOW MANY OF YOU SIT DOWN AT  
09:56AM 4 DINNER WITH FRIENDS OR FAMILY AND YOU TALK ABOUT YOUR DAY AND  
09:56AM 5 YOU CAN'T TALK ABOUT THE SUBSTANCE OF YOUR DAY HERE.

09:56AM 6 WHEN WE HAVE LUNCH BREAKS IF YOU WANT TO HAVE LUNCH WITH  
09:56AM 7 YOUR FELLOW JURORS, BY ALL MEANS PLEASE DO, TALK ABOUT ANYTHING  
09:56AM 8 YOU WANT EXCEPT YOUR JURY SERVICE, AND I'M SURE IT'S NOT THE  
09:56AM 9 MOST INTERESTING THING IN YOUR LIFE, YOU WILL HAVE A WEALTH OF  
09:56AM 10 INFORMATION TO CHAT ABOUT, BUT JUST NOT THIS CASE.

09:56AM 11 AND SO I NEED TO GO OVER THIS OVER AND OVER AGAIN BECAUSE  
09:56AM 12 IT IS SO IMPORTANT AND IT HAS BECOME SUCH AN ODDITY IN THE WAY  
09:56AM 13 WE LIVE OUR LIVES.

09:56AM 14 SO I THANK YOU FOR THAT, I THANK YOU FOR LISTENING TO THAT,  
09:56AM 15 BUT THAT'S REALLY WHAT WE NEED TO DO.

09:56AM 16 NOW LET ME BEGIN TO INTRODUCE YOU TO THIS CASE SO THAT WE  
09:56AM 17 CAN MOVE ALONG. THIS CASE IS CALLED CISCO SYSTEMS V. ARISTA  
09:56AM 18 NETWORKS. AND I AM GOING -- LET ME INTRODUCE THE ATTORNEYS WHO  
09:57AM 19 ARE HERE TODAY.

09:57AM 20 THE LEAD COUNSEL, I WILL LET THEM INTRODUCE THEIR  
09:57AM 21 CO-COUNSEL NEXT WEEK WHEN YOU COME BACK ON THE 28TH, FOR  
09:57AM 22 PLAINTIFF, CISCO SYSTEMS, LET ME INTRODUCE DAVID NELSON.

09:57AM 23 MR. NELSON: GOOD MORNING, EVERYBODY.

09:57AM 24 THE COURT: AND FOR ARISTA NETWORKS, LET ME INTRODUCE  
09:57AM 25 ROBERT VAN NEST.

09:57AM 1 MR. VAN NEST: GOOD MORNING, EVERYONE.

09:57AM 2 AND I'M HERE WITH MY COLLEAGUE BRIAN FERRALL. THANK YOU  
09:57AM 3 FOR BEING HERE.

09:57AM 4 THE COURT: THANK YOU.

09:57AM 5 NOW, I'M NOT GOING TO GIVE YOU MUCH INFORMATION ABOUT THE  
09:57AM 6 CASE, AND IN FACT I DON'T GIVE YOU A LOT OF INFORMATION ABOUT  
09:57AM 7 THE CASE. I WANT TO ORIENT YOU AS TO THE SUBJECT MATTER OF THE  
09:57AM 8 CASE, BECAUSE IN A FEW MINUTES WE WILL EXCUSE OURSELVES AND I'M  
09:57AM 9 GOING TO ASK YOU TO FILL OUT A QUESTIONNAIRE. AND I WANT YOU  
09:57AM 10 TO HAVE SOME GENERAL CONTEXT FOR UNDERSTANDING WHY YOU ARE  
09:57AM 11 BEING ASKED THESE QUESTIONS. AND I WILL EXPLAIN THAT  
09:57AM 12 QUESTIONNAIRE, BUT LET ME GIVE YOU THIS GENERAL STATEMENT ABOUT  
09:57AM 13 THE CASE.

09:58AM 14 THE PLAINTIFF IN THIS CASE IS CISCO SYSTEMS. THE DEFENDANT  
09:58AM 15 IS ARISTA NETWORKS. THIS IS A CASE INVOLVING CLAIMS OF  
09:58AM 16 COPYRIGHT AND PATENT INFRINGEMENT. CISCO AND ARISTA SELL  
09:58AM 17 NETWORKING SWITCHES.

09:58AM 18 CISCO ASSERTS THAT ARISTA INFRINGED CISCO'S COPYRIGHTS.  
09:58AM 19 ARISTA ASSERTS THAT IT DID NOT INFRINGE ANY OF CISCO'S  
09:58AM 20 COPYRIGHTS AND VARIOUS OTHER DEFENSES.

09:58AM 21 CISCO ALSO ASSERTS THAT ARISTA HAS INFRINGED ONE OF CISCO'S  
09:58AM 22 PATENTS. ARISTA DENIES THAT IT HAS INFRINGED THE PATENT.

09:58AM 23 NOW, THAT DOESN'T TELL YOU VERY MUCH, THAT'S NOT EVIDENCE,  
09:58AM 24 THAT IS REALLY THE BOOK JACKET. IN FACT, THAT'S THE SHORTENED  
09:58AM 25 VERSION OF THE BOOK JACKET. AND I JUST WANT YOU TO KNOW THAT



09:58AM 1 SUBJECT MATTER.

09:58AM 2 LET ME EXPLAIN WHAT I'M GOING TO HAVE YOU DO. I NEED A LOT  
09:58AM 3 OF INFORMATION ABOUT YOU, AND IT COULD TAKE TWO DAYS FOR ME TO  
09:59AM 4 QUESTION ALL OF YOU, OR I COULD HAVE YOU, AND WHAT I'M GOING TO  
09:59AM 5 DO, IS TO SPEND ANYWHERE FROM 30 MINUTES TO AN HOUR THIS  
09:59AM 6 MORNING FILLING OUT THIS QUESTIONNAIRE AND ALLOWING ME TO GAIN  
09:59AM 7 IN AN HOUR WHAT COULD TAKE ME TWO DAYS TO ASK EACH OF YOU.

09:59AM 8 AGAIN, MY INTEREST IS IN PRESERVING AND RESPECTING YOUR  
09:59AM 9 TIME. AND SO THIS QUESTIONNAIRE, I HAVE DEVELOPED, ALONG WITH  
09:59AM 10 THE ASSISTANCE OF THE ATTORNEYS, TO ASK YOU QUESTIONS THAT WILL  
09:59AM 11 HELP US DETERMINE IF YOU SHOULD SIT ON THIS JURY.

09:59AM 12 IT STARTS OFF VERY SIMPLY, GIVING YOU SOME DIRECTIONS ON  
09:59AM 13 HOW TO FILL IT OUT. FOR ME, THE MOST IMPORTANT THING IS THAT  
09:59AM 14 IT BE LEGIBLE AND COMPLETE. BUT WE LITERALLY START WITH YOUR  
09:59AM 15 NAME AND WE ASK YOU HOW OLD YOU ARE, WE ASK YOU WHERE YOU LIVE,  
09:59AM 16 AND SOME QUESTIONS ABOUT YOUR PERSONAL BACKGROUND.

09:59AM 17 IN MANY CASES, YOU ARE GOING TO CIRCLE A YES OR NO. IN  
09:59AM 18 OTHER CASES THERE ARE LINES FOR YOU TO GIVE AN EXPLANATION. WE  
09:59AM 19 DON'T NEED YOUR LIFE HISTORY, THIS IS NOT INTENDED TO BE AN  
10:00AM 20 AUTO BIOGRAPHY ABOUT YOU, BUT THERE IS SOME SPECIFIC  
10:00AM 21 INFORMATION THAT'S ASKED FOR, IN MANY CASES BECAUSE YOUR ANSWER  
10:00AM 22 IS YES OR NO, YOU ARE NOT ASKED TO EXPLAIN. BUT THERE ARE SOME  
10:00AM 23 INSTANCES WHERE YOU MAY FIND THAT WE ARE ASKING FOR YOUR  
10:00AM 24 EXPLANATION.

10:00AM 25 THE FORM ALSO IS ASKING FOR INFORMATION ABOUT YOU AND

1 FAMILY MEMBERS AND CLOSE FRIENDS. AND THE REASON FOR THAT IS  
2 WE WANT TO KNOW THE INFLUENCES ON YOU.

3 SO FOR EXAMPLE, IF YOU LIVE WITH SOMEONE WHO HAS, WHO WORKS  
4 FOR ONE OF THESE COMPANIES, THAT'S AS IMPORTANT TO US AS IF YOU  
5 WORK FOR ONE OF THESE COMPANIES, AND SO WE ARE GOING TO WANT TO  
6 KNOW THAT.

7 THESE QUESTIONS, AS I SAY, IT'S QUITE A FEW PAGES, BUT IT'S  
8 DESIGNED IN A WAY TO ALLOW YOU TO DO A LOT OF CHECKING OF BOXES  
9 SO THAT YOU CAN MOVE THROUGH IT RELATIVELY QUICKLY. AND THE  
10 QUESTIONS ARE DESIGNED TO GET OUT THE KINDS OF BIASES THAT  
11 WOULD BE IMPORTANT TO KNOW IN THIS CASE, AND NOT TO ASK YOU  
12 QUESTIONS THAT WOULD BE COMPLETELY IRRELEVANT TO THIS CASE.

13 SO THIS FORM IS CONFIDENTIAL. NOW LET ME EXPLAIN WHAT  
14 CONFIDENTIAL MEANS. CERTAINLY I WILL SEE IT, BUT THE ATTORNEYS  
15 WILL SEE IT AS WELL. BUT YOU WILL NOT HAVE TO DISCUSS THESE  
16 THINGS IN OPEN COURT WITH YOUR FELLOW JURORS.

17 THERE ARE THINGS ON THIS FORM THAT SOME OF YOU MIGHT FIND  
18 TO BE PERSONAL. AND SO THEY'RE HERE AND YOU CAN FILL THIS OUT.  
19 WE DON'T MEAN TO PRY INTO YOUR PERSONAL LIFE, BUT I'VE REALLY  
20 LOOKED AT THIS AND I'M SATISFIED I NEED TO KNOW THE ANSWERS TO  
21 THESE QUESTIONS.

22 AS YOU CAN TELL, BECAUSE OF THE SUBJECT MATTER OF THIS  
23 CASE, THERE ARE A LOT OF ISSUES THAT OTHER COURTS MIGHT HAVE  
24 ASKED YOU IN DIFFERENT KINDS OF CASES THAT WE ARE NOT CONCERNED  
25 ABOUT HERE, SO THOSE QUESTIONS WON'T BE HERE.

10:01AM 1 NOW, AS YOU GO THROUGH THE FORM, IT'S IMPORTANT THAT YOU  
10:02AM 2 ANSWER EVERY QUESTION. AND LET ME JUST POINT OUT TO YOU,  
10:02AM 3 TOWARD THE BACK OF THE FORM YOU ARE ASKED IF YOU KNOW ANY OF  
10:02AM 4 THE PROSPECTIVE WITNESSES OR ATTORNEYS IN THE CASE.

10:02AM 5 NOW IT'S A LONG LIST OF NAMES. I DON'T WANT YOU TO BE  
10:02AM 6 FREAKED OUT ABOUT SEEING HOW LONG IT IS, I'VE ASKED THE  
10:02AM 7 ATTORNEYS TO GIVE ME THE NAMES OF EVERYONE WHO MIGHT TESTIFY.  
10:02AM 8 THEY AREN'T ALL GOING TO BE TESTIFYING, BUT I NEED TO KNOW IF  
10:02AM 9 YOU KNOW ANY OF THESE INDIVIDUALS. IF THIS IS YOUR BEST FRIEND  
10:02AM 10 OR YOUR FAVORITE AUNT, I NEED TO KNOW THAT.

10:02AM 11 MANY PEOPLE HAVE COMMON NAMES. I HAVE ONE OF THOSE NAMES.  
10:02AM 12 WHENEVER I GO TO THE DOCTOR, WHICH BETH FREEMAN ARE YOU? SO I  
10:03AM 13 HAVE TO TELL THEM, WELL, I'M THE ONE WHO LIVES AT THIS ADDRESS,  
10:03AM 14 AND THEN THEY GET THE RIGHT RECORDS OUT FOR ME.

10:03AM 15 MANY OF YOU, I'M SURE, HAVE COMMON NAMES AS WELL AND YOU  
10:03AM 16 ARE FAMILIAR WITH THAT. WELL, SAME THING WITH OUR WITNESSES.  
10:03AM 17 SO IF YOU CIRCLE A NAME, THE FORM IS ASKING YOU, BUT HERE'S  
10:03AM 18 WHAT I NEED TO KNOW, I NEED YOU TO IDENTIFY SOMETHING ABOUT THE  
10:03AM 19 PERSON I KNOW THAT WOULD BE DISTINCTIVE SO WE CAN DETERMINE IF  
10:03AM 20 IT'S THE SAME PERSON. I CAN'T TELL YOU WHO THE WITNESS IS, I  
10:03AM 21 WOULD BE GIVING EVIDENCE IN THE CASE.

10:03AM 22 SO YOU HAVE TO TELL US, SO FOR EXAMPLE IF THERE WAS A JOHN  
10:03AM 23 SMITH ON THE LIST AS A WITNESS AND YOU KNEW A JOHN SMITH. YOU  
10:03AM 24 WOULD WRITE DOWN JOHN SMITH IS MY DENTIST. OKAY. THEN I CAN  
10:03AM 25 ASK THE PARTIES, IS YOUR WITNESS A DENTIST. WELL, GIVEN THE

1 NATURE OF THIS CASE, THAT'S PRETTY UNLIKELY. AND WE CAN JUST  
2 PASS THAT ON AND WE ARE DONE, BECAUSE WE KNOW.

3 IT COULD BE, YOU KNOW, MARY JONES IS MY CHILD'S FOURTH  
4 GRADE TEACHER. WELL, AGAIN, THE ATTORNEYS ARE GOING TO KNOW IF  
5 THEIR WITNESS IS A FOURTH GRADE TEACHER AND THAT'S SOMETHING  
6 DISTINCTIVE. IT COULD BE THIS IS MY NEXT DOOR NEIGHBOR IN THE  
7 TOWN OF MOUNTAIN VIEW OR WHEREVER YOU MIGHT LIVE.

8 SO IT'S JUST A BRIEF DESCRIPTION, JUST A LITTLE HANDLE SO  
9 THAT WE CAN FIGURE IT OUT. AND IF WE CAN'T FIGURE IT OUT, WE  
10 WILL COME BACK TO YOU ON THE MONDAY WHEN WE COME BACK IN, BUT  
11 THAT WAY WE CAN TAKE CARE OF THIS PRETTY EFFICIENTLY. SO THE  
12 FORM ASKS YOU TO CIRCLE THE NAME THAT YOU KNOW.

13 AND I WOULD SAY THAT MOST OF YOU WILL CIRCLE NO NAMES, BUT  
14 SOME OF YOU MAY KNOW PEOPLE WITH THESE NAMES AND I NEED YOU TO  
15 LET ME KNOW THAT. AND PLEASE MAKE SURE YOU DO ALL OF THAT.

16 NOW ON THE LAST PAGE, YOU NEED TO SIGN AND DATE IT. IT'S  
17 REALLY IMPORTANT THAT YOU SIGN IT. YOU ARE TAKING ANOTHER OATH  
18 TO TELL THE TRUTH. I KNOW YOU WILL BUT I ALWAYS LIKE TO POINT  
19 THAT OUT FOR YOU.

20 WHEN YOU ARE DONE FILLING OUT THIS FORM, YOU ARE FREE TO GO  
21 FOR THE DAY AND YOU WILL BE COMING BACK ON NOVEMBER 28TH AND  
22 ALL OF YOU WILL BE COMING BACK ON THAT DAY.

23 I ALWAYS WORRY WHEN IT'S SO MANY DAYS THAT PEOPLE WILL  
24 FORGET, LET ME JUST TELL YOU, I KNOW YOU WILL ALL PUT IT ON  
25 YOUR CALENDARS. SOMETIMES EMERGENCIES ARISE, AND IT'S A LOT OF

10:05AM 1 DAYS, SO I NEED YOU TO DO ME THE FAVOR OF MAKING SURE THAT YOU  
10:05AM 2 HAVE THE CORRECT PHONE NUMBER FOR THE COURT TO CALL MY  
10:05AM 3 COURTROOM DEPUTY MS. SALINAS-HARWELL IF THERE IS AN EMERGENCY  
10:05AM 4 THAT IS KEEPING YOU FROM ARRIVING.

10:05AM 5 FIRST OF ALL, YOU WILL BE KEEPING ALL OF YOUR FELLOW JURORS  
10:05AM 6 WAITING, AND THEIR TIME IS VALUABLE JUST AS YOURS IS. IF  
10:05AM 7 SOMETHING HAS HAPPENED THAT YOU CAN'T BE HERE OR THAT YOU'RE  
10:05AM 8 BEHIND BECAUSE OF AN ACCIDENT ON THE ROAD, PLEASE CALL US, AND  
10:06AM 9 THERE'S VOICE MAIL SO YOU CAN LEAVE A MESSAGE SO YOU WILL BE  
10:06AM 10 ABLE TO GET THROUGH, SO THAT'S VERY IMPORTANT TO ALL OF US.

10:06AM 11 IF WE DON'T HEAR FROM YOU AND YOU ARE NOT HERE, A VERY  
10:06AM 12 FRIENDLY UNITED STATES MARSHAL WILL KNOCK ON YOUR DOOR, BUT IT  
10:06AM 13 WILL NOT BE A SOCIAL VISIT, LET ME MAKE THAT CLEAR, AND YOU  
10:06AM 14 WILL BE BROUGHT TO COURT BY A UNITED STATES MARSHAL. SO I  
10:06AM 15 DON'T WANT THAT TO HAPPEN, SO THAT'S WHY WE TRY TO MAKE  
10:06AM 16 EVERYTHING AVAILABLE TO ASSIST YOU.

10:06AM 17 AND WHEN YOU COME BACK ON NOVEMBER 28TH, I WILL TURN THIS  
10:06AM 18 OVER TO THE ATTORNEYS TO ASK YOU FOLLOW UP QUESTIONS FROM WHAT  
10:06AM 19 WE'VE LEARNED ABOUT YOU ON THE QUESTIONNAIRE. AND THAT MORNING  
10:06AM 20 WE WILL SELECT OUR JURY. AND THAT WILL GO RELATIVELY QUICKLY.

10:06AM 21 SO FOR -- I DON'T KNOW WHICH OF YOU WILL BE JOINING ME IN  
10:06AM 22 OBSERVING THIS TRIAL, BUT MANY OF YOU WILL BE EXCUSED FROM YOUR  
10:07AM 23 JURY SERVICE ON MONDAY. YOU CAN'T ALL MAKE PLANS FOR MONDAY  
10:07AM 24 AFTERNOON BECAUSE YOU DON'T KNOW. AND WE GO RIGHT INTO THE  
10:07AM 25 TRIAL, AS SOON AS THE JURY IS SWORN, WE GO RIGHT INTO THE

10:07AM 1 OPENING JURY INSTRUCTIONS.

10:07AM 2 SO MONDAY, THAT DAY ON NOVEMBER 28TH, IS A DAY THAT I WANT  
10:07AM 3 YOU TO ALL EXPECT TO BE HERE.

10:07AM 4 NOW THE LAST THING THAT I'M GOING TO ASK YOU TO DO ON THE  
10:07AM 5 FORM, AND YOU CAN DO IT AT THE VERY END, EITHER BELOW YOUR  
10:07AM 6 SIGNATURE OR SOMEWHERE WHERE THERE ARE LINES, MY BEST ESTIMATE  
10:07AM 7 IS THAT THE CASE WILL BE CONCLUDED ON DECEMBER 16TH. AND WE'VE  
10:07AM 8 ASKED YOU ALL THAT IN THE FIRST QUESTIONNAIRE.

10:07AM 9 I WOULD LIKE TO KNOW IF YOU WOULD BE UNAVAILABLE, SHOULD  
10:07AM 10 THE CASE LAST A LITTLE LONGER ON JUST THE TWO DAYS AFTER THAT,  
10:07AM 11 WHICH WOULD BE DECEMBER 19TH AND 20, THE MONDAY AND TUESDAY  
10:07AM 12 BEFORE THE HOLIDAY.

10:07AM 13 I JUST WANT TO KNOW. AND WE WILL -- I'M NOT GOING TO  
10:08AM 14 EXCUSE YOU BECAUSE OF IT. WE WILL NOT UNDER ANY CIRCUMSTANCES  
10:08AM 15 BE IN SESSION BETWEEN THE 21ST AND JANUARY -- AND WE WOULD COME  
10:08AM 16 BACK ON JANUARY 3RD IF WE HAD TO. AGAIN, MY BEST ESTIMATE IS  
10:08AM 17 MUCH EARLIER, BUT AS I TOLD YOU, IT'S ONLY MY BEST ESTIMATE.

10:08AM 18 SO I DON'T WANT ANY OF YOU TO WORRY ABOUT CREEPING INTO  
10:08AM 19 THAT WEEK AND THE HOLIDAY, BUT -- AND I WANT TO KNOW, I MIGHT  
10:08AM 20 NOT EVEN BE IN SESSION ON THE 19TH AND 20TH, I WANT TO KNOW  
10:08AM 21 YOUR AVAILABILITY. SO IF YOU COULD LET ME KNOW THAT, I WOULD  
10:08AM 22 APPRECIATE IT. IF YOU FORGET IT'S SOMETHING I WILL ASK AGAIN  
10:08AM 23 ON NOVEMBER 28TH WHEN WE COME BACK JUST TO SEE WHAT WE'VE GOT.

10:08AM 24 SO LADIES AND GENTLEMEN, THAT TAKES CARE OF EVERYTHING THAT  
10:08AM 25 I HAVE. THANK YOU.

10:08AM 1 THE FORM IS GOING TO TAKE YOU A LITTLE BIT OF TIME TO FILL  
10:08AM 2 OUT. I WOULD SAY THAT MOST OF YOU WILL BE HERE PROBABLY PRETTY  
10:08AM 3 CLOSE TO 11:00. DON'T RUSH THROUGH IT. FILL IT OUT. BUT SOME  
10:09AM 4 OF YOU -- YOU HAVE ALL TAKEN TESTS, SOME OF YOU ARE THE FIRST  
10:09AM 5 OUT THE DOOR AND YOU GET THE "A," AND SOME OF YOU ARE THE LAST  
10:09AM 6 TO FINISH AND YOU GET THE "A" ALSO. SO THERE'S NO RULE, TAKE  
10:09AM 7 IT AT YOUR OWN PACE, BUT JUST BE COMPLETE AND THOUGHTFUL ABOUT  
10:09AM 8 IT, AND THAT'S WHAT I ASK OF YOU AND I DO APPRECIATE THAT.  
10:09AM 9 THANK YOU.

10:09AM 10 AGAIN, LET ME REMIND YOU THAT THERE'S NO RESEARCH OR  
10:09AM 11 INVESTIGATION IN THE CASE. AND HAVE A WONDERFUL THANKSGIVING  
10:09AM 12 HOLIDAY FOR ALL OF YOU. I WILL SEE YOU ON NOVEMBER 28TH.

10:09AM 13 I'M GOING TO ASK THE ATTORNEYS TO JOIN ME SO YOU DON'T HAVE  
10:09AM 14 TO HAVE THEM STARING AT YOU WHILE YOU ARE FILLING OUT THIS  
10:09AM 15 QUESTIONNAIRE. AND MS. SALINAS-HARWELL WILL REMAIN IN THE  
10:09AM 16 COURTROOM TO ASSIST YOU, AND PLEASE ASK HER QUESTIONS AS YOU  
10:09AM 17 NEED SO THAT SHE CAN ANSWER THOSE QUESTIONS AND HELP YOU.

10:09AM 18 SO THANK YOU ALL.

10:09AM 19 (WHEREUPON, THE PROCEEDINGS IN THIS MATTER WERE CONCLUDED.)

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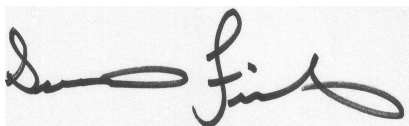
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**CERTIFICATE OF REPORTER**

I, THE UNDERSIGNED OFFICIAL COURT  
REPORTER OF THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH  
FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY  
CERTIFY:

THAT THE FOREGOING TRANSCRIPT,  
CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND  
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS  
SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS  
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED  
TRANSCRIPTION TO THE BEST OF MY ABILITY.

A handwritten signature in black ink, appearing to read "Summer A. Fisher", is written over a light gray rectangular background.

SUMMER A. FISHER, CSR, CRR  
CERTIFICATE NUMBER 13185

DATED: 11/18/16